

REMARKS

This paper is submitted in response to the Office Action mailed on April 26, 2006. Claims 1, 13 and 21 have been amended. Claims 1-21 now remain in the application. In view of the foregoing amendment, as well as the following remarks, Applicants respectfully submit that the application is in complete condition for allowance and requests reconsideration in this regard.

Claims 1-3, 5, 7, 8 and 21 were rejected under 35 U.S.C. § 102(a) as being anticipated by Rhodes. In a prior response, we distinguished independent claims 1 and 21 over Rhodes by noting that Rhodes does not teach or suggest "over-wrapping the filled carton with a film..." as was specifically recited in claims 1 and 21. In the Office Action, the Examiner does not refute the failure of Rhodes to make such a teaching or suggestion, but instead asserts that claims 1 and 21 do not require the carton be filled prior to over-wrapping the carton with the film. In particular, the Examiner states:

In claims 1 and 21, applicant argues that the prior art reference of Rhodes does not teach all of the limitations of the claims since there is no over-wrapping of the filled carton with a film. The examiner does not agree. First, the claimed method does not suggest, explicitly or implicitly, a specific order for packaging. "Unless the steps of a method actually recite an order, the steps are not ordinarily construed to require one." *Altiris Inc. v. Symantec Corp.* 318 F.3d 1363, 1369 (Fed. Cir. 2003). The claim currently can be interpreted in two ways. The first is where the carton is over-wrapped with plastic prior to filling. This is anticipated by Rhodes.

(Office Action, p. 12). Applicants respectfully disagree. In the previous response, claims 1 and 21 clearly recited "over-wrapping the filled carton with a film..." (Emphasis added). Applicants respectfully assert that the plain meaning of the claim language

requires the overwrapping step be performed after the filling step. While the steps of a method claim should not be construed to necessarily have a specific order, the sequential nature of the claim steps may be apparent from the plain meaning of the claim language. *Envtl. Corp. v. Hudson Envts. Servs., Inc.*, 152 F.3d 1368, 1376 (Fed. Cir. 1998). Clearly in this case, the plain meaning of the claim language requires that the carton be filled prior to over-wrapping the carton with the film.

Nevertheless, Applicants have amended claims 1 and 21 to more clearly recite that filling the carton occurs prior to over-wrapping the carton with film. In particular, claims 1 and 21 have been amended to recite "over-wrapping the carton with a film after the filling the carton step..." As previously discussed, but now slightly restated, Rhodes fails to teach or suggest over-wrapping the carton with a film after the carton has been filled. Accordingly, Applicants submit that claims 1 and 21 are allowable.

Moreover, as claims 2, 3, 5, 7, and 8 depend from allowable independent claim 1, and further as each of these claims recites a combination of steps not taught or suggested by the prior art of record, Applicants respectfully submit these claims are allowable as well.

Claims 6, 9, and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rhodes. Claims 6, 9, and 10 depend from allowable independent claim 1. Thus, for the reasons provided above for claim 1, Applicants respectfully submit that Rhodes fails to teach or suggest the combination of steps recited in dependent claims 6, 9, and 10.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Rhodes in view of Littmann. Claim 4 depends from allowable independent claim 1. Thus, for the reasons provided above for claim 1, Applicants respectfully submit that Rhodes fails to teach or suggest the combination of steps recited in claim 4 and the claim is allowable.

Claims 1, 2, 5-7, and 9-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Chapman. Although Applicants disagree with the rejection, claim 1 has been amended to more clearly define over the prior art. In particular, claim 1 has been amended to recite "over-wrapping the carton with a film after the carton is filled such that the entire film registers with a portion of the carton." With the meaning of "register" now more clearly understood, Williams clearly does not teach or suggest a configuration where "the entire film registers with a portion of the carton," as now recited in claim 1. As shown in Fig. 1 of Williams, each package (11) is open along the top of the package such that the film (13) does not register with a portion of the package (11), but instead registers with either a void below the film or the top of a container (12). Clearly then, there is a portion of the film that does not register with the carton. Accordingly, Applicants respectfully submit that Williams, either alone or in combination with Chapman, fails to teach or suggest the combination of steps recited in independent claim 1 and the rejection should be withdrawn.

Moreover, as claims 2, 5-7, and 9-12 depend from allowable independent claim 1, and further as each of these claims recites a combination of steps not taught or

suggested by the prior art of record, Applicants respectfully submit that these claims are allowable as well.

Claims 3 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Killy. Claims 3 and 8 depend from allowable independent claim 1, and further as each of these claims recites a combination of steps not taught or suggested by the prior art of record, Applicants respectfully submit that these claims are allowable as well.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Littmann. Claim 4 depends from allowable independent claim 1, and further as this claim recites a combination of steps not taught or suggested by the prior art of record, Applicants respectfully submit that this claim is allowable as well.

Claims 13-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rhodes in view of Littmann. Applicants have amended independent claim 13 to more clearly recite that filling the carton occurs prior to over-wrapping the carton with film. As stated above, Rhodes fails to teach or suggest over-wrapping the carton with a film after the carton is filled. Accordingly, Applicants respectfully submit that Rhodes, either alone or in combination with Littmann, fails to teach or suggest the combination of steps recited in independent claim 13.

Moreover, as claims 14-18 depend from allowable independent claim 13, and further as each of these claims recites a combination of steps not taught or suggested by the prior art of record, Applicants respectfully submit that these claims are allowable as well.

Claims 13-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Killy and in further view of Littmann. Independent claim 13 has been amended to recite "over-wrapping the carton with a film after the carton is filled such that the entire film is in confronting relation with a portion of the carton." With the meaning of "register" now more clearly understood, Williams clearly does not teach or suggest a configuration where "the entire film is in confronting relation with a portion of the carton," as now recited in claim 13. Thus, Applicants respectfully submit that Williams, either alone or in combination with the other prior art of record, fails to teach or suggest the combination of steps recited in independent claim 13.

Moreover, as claims 14-20 depend from independent claim 13, and further as each of these claims recites a combination of steps not taught or suggested by the prior art of record, Applicants respectfully submit that these claims are allowable as well.

In addition to the above, we continue to point out that Williams fails to teach or suggest a scored portion of the film becoming part of the convenience feature when accessed by a user, as recited in claim 13. In the present Office Action, the Examiner again asserts that Williams discloses "the scored portion fo the film becoming part of the convenience feature by being located directly adjacent and movable with the convenience feature which allows access to the convenience feature..." (Office Action, p. 10). Applicants respectfully disagree. Williams shows an access hole (14) where the scored portion of the film is completely removed to form the hole (14). With this configuration, Applicants fail to see how the scored portion of the film becomes part of the convenience feature. The scored portion is no longer there and thus cannot

become part of the handle. For this further reason, Applicants submit that claim 13 is allowable.

Conclusion

In view of the foregoing response including the amendments and remarks, this application is submitted to be in complete condition for allowance and early notice to this affect is earnestly solicited. If the Examiner believes any matter requires further discussion, the Examiner is respectfully invited to telephone the undersigned attorney so that the matter may be promptly resolved.

Applicant does not believe that any fees are due in connection with this response. However, if such petition is due or any fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

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